

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 95-01
(February 7, 1995)

**Membership on Nominating Committee of a
Homeowners Association**

Issue

May a judge belong to the nominating committee of a non-profit homeowners association?

Answer: Yes.

Facts

A non-profit homeowners association utilizes a nominating committee to nominate its directors or officers.

Discussion

Canon 4 of the Code of Judicial Conduct says "A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations." Within Canon 4 are more specific provisions that prohibit conduct that would affect a judge's impartiality, demean the office of judge, interfere with the performance of judicial duties, exploit the judge's position, or cause the judge to be in contact with persons regularly coming before the judge's court so as to cause frequent disqualification. Canon 4D(3) says a judge shall not serve as a director, manager, general partner, advisor or employee of any business entity, except for closely held family businesses.

In the case of a homeowners association, the judge may be a member by the mere fact of residing in a particular area. If the association is involved in any matter coming before the court, the judge would be disqualified by mere membership even if no other position was held.

We do not believe the intent of Canon 4 is to prevent a judge from taking part in normal aspects of home ownership that all other homeowners enjoy. As long as all the other provisions of Canon 4 are observed, we do not believe the "business entity" prohibition applies to a neighborhood non-profit association if it exercises nothing more than normal homeowners rights. Where a homeowner association carries on no business apart from home ownership and enjoyment responsibilities, we believe a judge may serve on a committee which makes nominations for directors or officers.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 4 (1993).